

REMARKS

Claim 1 has been amended to recite the elected compound a) tritosulfuron and as b) bromoxynil, pendimethalin and imazethapyr. Support for this amendment is found in original claim 1. Claims 2 and 3 have been amended to correct minor grammatical issues. No new matter has been added.

Claims 1-3 have been rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Landes et al. (US 6,054,410). Applicants respectfully traverse.

Landes discloses a broad range of sulfonylurea compounds with an extensive list, covering nearly all commercial herbicides known at the time of the Landes filing. Clearly Landes can not be considered to anticipate the present claims due to the amount of selection that would be required to arrive at the specific embodiments of the present claims. The only combinations of tritosulfuron and a co-herbicide specifically taught are found in claim 4 of Landes, which individually identifies tritosulfuron and depends from claim 1 which claims a narrow list of co-herbicides, none of which are present in the current claims of the instant application.

Applicant submits that the present claims are not obvious over Landes. While Landes broadly describes apparent synergy between sulfonylurea-type herbicides and a vast range of herbicides from 41 different classes, this teaching is not credible in the absence of data. One of ordinary skill faced with the disclosure of Landes and the common general knowledge about the unpredictability of synergy would not expect that each and every potential combination of this extremely broad reference would give rise to a synergistic herbicidal effect against weeds.

The present claims are based on the unexpected finding that combinations of tritosulfuron with any one of bromoxynil, pendimethalin or imazethapyr are synergistically active against a variety of weed species and useful in a variety of crops where these combinations cause either negligible or no effect against such crops. Enclosed herewith is a Declaration under CFR 1.132 of Matthew Cordingley describing tests conducted on the presently claimed herbicide mixtures on a variety of crops and a variety of weed species. As described in the Declaration, while crop safety is retained synergy is seen in a wide variety of weeds. This increase in activity on certain weed species, while maintaining crop safety, clearly demonstrate the unexpected properties of the presently claimed herbicide mixtures.

In view of the above amendments and arguments as well as the attached Declaration, Applicant respectfully submits that the rejection under 35 U.S.C. §102(b) has been overcome and hereby request that this application be passed to issue.

As this response is submitted within six (6) months from the mailing date of the Office Action, a 3-month extension of time is included herewith.

However, in the event the undersigned is mistaken in his calculations, an appropriate extension of time to respond is respectfully requested, and the Commissioner is authorized to debit the appropriate fee for that extension, or any other fee, from the deposit account of the undersigned, no 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

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